

SECOND REGULAR SESSION

HOUSE BILL NO. 2133

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKLIN.

5669H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 595.209, RSMo, and to enact in lieu thereof one new section relating to notification rights of victims.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 595.209, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.209, to read as follows:

595.209. 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, [and] victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, **and victims of domestic assault, as defined in sections 565.072 to 565.074**; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult, even if the victim is called to testify or may be called to testify as a witness in the case;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552 or its successors, hearings, sentencing and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 probation revocation hearings and the right to be heard at such hearings, including juvenile
19 proceedings, unless in the determination of the court the interests of justice require otherwise;

20 (5) The right to be informed by local law enforcement agencies, the appropriate juvenile
21 authorities or the custodial authority of the following:

22 (a) The status of any case concerning a crime against the victim, including juvenile
23 offenses;

24 (b) The right to be informed by local law enforcement agencies or the appropriate
25 juvenile authorities of the availability of victim compensation assistance, assistance in obtaining
26 documentation of the victim's losses, including, but not limited to and subject to existing law
27 concerning protected information or closed records, access to copies of complete, unaltered,
28 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon
29 request to the appropriate law enforcement agency by the victim or the victim's representative,
30 and emergency crisis intervention services available in the community;

31 (c) Any release of such person on bond or for any other reason;

32 (d) Within twenty-four hours, any escape by such person from a municipal detention
33 facility, county jail, a correctional facility operated by the department of corrections, mental
34 health facility, or the division of youth services or any agency thereof, and any subsequent
35 recapture of such person;

36 (6) For victims, the right to be informed by appropriate juvenile authorities of probation
37 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings
38 or to offer a written statement, video or audio tape, counsel or a representative designated by the
39 victim in lieu of a personal appearance, the right to be informed by the board of probation and
40 parole of probation revocation hearings initiated by the board and of parole hearings, the right
41 to be present at each and every phase of parole hearings, the right to be heard at probation
42 revocation and parole hearings or to offer a written statement, video or audio tape, counsel or a
43 representative designated by the victim in lieu of a personal appearance, and the right to have,
44 upon written request of the victim, a partition set up in the probation or parole hearing room in
45 such a way that the victim is shielded from the view of the probationer or parolee, and the right
46 to be informed by the custodial mental health facility or agency thereof of any hearings for the
47 release of a person committed pursuant to the provisions of chapter 552, the right to be present
48 at such hearings, the right to be heard at such hearings or to offer a written statement, video or
49 audio tape, counsel or a representative designated by the victim in lieu of personal appearance;

50 (7) For victims and witnesses, upon their written request, the right to be informed by the
51 appropriate custodial authority, including any municipal detention facility, juvenile detention
52 facility, county jail, correctional facility operated by the department of corrections, mental health
53 facility, division of youth services or agency thereof if the offense would have been a felony if

54 committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552
55 of the following:

56 (a) The projected date of such person's release from confinement;

57 (b) Any release of such person on bond;

58 (c) Any release of such person on furlough, work release, trial release, electronic
59 monitoring program, or to a community correctional facility or program or release for any other
60 reason, in advance of such release;

61 (d) Any scheduled parole or release hearings, including hearings under section 217.362,
62 regarding such person and any changes in the scheduling of such hearings. No such hearing shall
63 be conducted without thirty days' advance notice;

64 (e) Within twenty-four hours, any escape by such person from a municipal detention
65 facility, county jail, a correctional facility operated by the department of corrections, mental
66 health facility, or the division of youth services or any agency thereof, and any subsequent
67 recapture of such person;

68 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court
69 presiding over releases pursuant to the provisions of chapter 552, or by a circuit court presiding
70 over releases under section 217.362, to release such person or any decision by the governor to
71 commute the sentence of such person or pardon such person;

72 (g) Notification within thirty days of the death of such person;

73 (8) For witnesses who have been summoned by the prosecuting attorney and for victims,
74 to be notified by the prosecuting attorney in a timely manner when a court proceeding will not
75 go on as scheduled;

76 (9) For victims and witnesses, the right to reasonable protection from the defendant or
77 any person acting on behalf of the defendant from harm and threats of harm arising out of their
78 cooperation with law enforcement and prosecution efforts;

79 (10) For victims and witnesses, on charged cases or submitted cases where no charge
80 decision has yet been made, to be informed by the prosecuting attorney of the status of the case
81 and of the availability of victim compensation assistance and of financial assistance and
82 emergency and crisis intervention services available within the community and information
83 relative to applying for such assistance or services, and of any final decision by the prosecuting
84 attorney not to file charges;

85 (11) For victims, to be informed by the prosecuting attorney of the right to restitution
86 which shall be enforceable in the same manner as any other cause of action as otherwise
87 provided by law;

88 (12) For victims and witnesses, to be informed by the court and the prosecuting attorney
89 of procedures to be followed in order to apply for and receive any witness fee to which they are
90 entitled;

91 (13) When a victim's property is no longer needed for evidentiary reasons or needs to be
92 retained pending an appeal, the prosecuting attorney or any law enforcement agency having
93 possession of the property shall, upon request of the victim, return such property to the victim
94 within five working days unless the property is contraband or subject to forfeiture proceedings,
95 or provide written explanation of the reason why such property shall not be returned;

96 (14) An employer may not discharge or discipline any witness, victim or member of a
97 victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending
98 a criminal proceeding, or for participating in the preparation of a criminal proceeding, or require
99 any witness, victim, or member of a victim's immediate family to use vacation time, personal
100 time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a
101 criminal proceeding, or participating in the preparation of a criminal proceeding;

102 (15) For victims, to be provided with creditor intercession services by the prosecuting
103 attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

104 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
105 victims, the right to speedy appellate review of their cases, provided that nothing in this
106 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's
107 defense. The attorney general shall provide victims, upon their written request, case status
108 information throughout the appellate process of their cases. The provisions of this subdivision
109 shall apply only to proceedings involving the particular case to which the person is a victim or
110 witness;

111 (17) For victims and witnesses, to be provided by the court, a secure waiting area during
112 court proceedings and to receive notification of the date, time and location of any hearing
113 conducted by the court for reconsideration of any sentence imposed, modification of such
114 sentence or recall and release of any defendant from incarceration;

115 (18) For victims, the right to receive upon request from the department of corrections
116 a photograph taken of the defendant prior to release from incarceration.

117 2. The provisions of subsection 1 of this section shall not be construed to imply any
118 victim who is incarcerated by the department of corrections or any local law enforcement agency
119 has a right to be released to attend any hearing or that the department of corrections or the local
120 law enforcement agency has any duty to transport such incarcerated victim to any hearing.

121 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1
122 of this section shall provide the appropriate person or agency with their current addresses and

123 telephone numbers or the addresses or telephone numbers at which they wish notification to be
124 given.

125 4. Notification by the appropriate person or agency utilizing the statewide automated
126 crime victim notification system as established in section 650.310 shall constitute compliance
127 with the victim notification requirement of this section. If notification utilizing the statewide
128 automated crime victim notification system cannot be used, then written notification shall be sent
129 by certified mail to the most current address provided by the victim.

130 5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution
131 or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced
132 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor
133 of the defendant to exclude victims or prevent their full participation in each and every phase of
134 parole hearings or probation revocation hearings. The rights of the victims granted in this section
135 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's
136 rights. The victim has an absolute right to be present at any hearing in which the defendant is
137 present before a probation and parole hearing officer.

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